

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

DUNCAN BRATTON

PLAINTIFF

v.

CASE NO. 6:17-CV-6075-SOH

KOMPTECH AMERICAS, LLC, and
POWERSCREEN OF TEXAS

DEFENDANTS

**KOMPTECH AMERICAS, LLC'S OBJECTIONS TO PLAINTIFF'S
PRETRIAL DISCLOSURES**

Pursuant to the Court's Final Scheduling Order (Doc. No. 20, ¶ 4(a)), Komptech Americas, LLC ("Komptech"), for its objections to plaintiff's pretrial disclosures, states:

1. **Concise Summary of Facts.** Komptech disagrees with portions of plaintiff's fact summary. *See* Doc. No. 42, ¶ 7. Specifically, the record bears out that the windrow turner was being returned to Powerscreen rather than Komptech. Likewise, it is uncontroverted that Komptech did not make arrangements for Powerscreen's driver, Terry Shaw, to drive to Hot Springs, Arkansas to pick up the windrow turner. Komptech objects to any hearsay evidence that forms the basis of plaintiff's fact summary (e.g., "Shaw told Plaintiff's supervisor and one of his co-workers that the same type of machine had been flipped over in Florida and that's why he didn't want to load it").

2. **Exhibit List.** Generally, Komptech objects to all items referenced in plaintiff's exhibit list to the extent those items contain inadmissible hearsay, lack

foundation, are irrelevant, or were not disclosed during the course of discovery.

Specifically, Komptech objects to the following:

Plaintiff's Ref. No.	Objection
6	This document has not been produced and should not be permitted to be admitted into evidence at trial. Komptech has been unable to assess the contents of the document but anticipates that it is hearsay. Komptech further objects on the basis of foundation.
7	Plaintiff has not specified which pictures are being referenced. Komptech objects to the introduction of any photograph not produced during discovery. If plaintiff is referring to photographs produced by Komptech, there is no objection.
8	<p>Komptech objects to the introduction of any medical record not produced by plaintiff during discovery. Komptech has yet to receive any medical records from plaintiff for the following providers identified in No. 8:</p> <ul style="list-style-type: none"> • Arkansas Specialty Surgery Center • St. Vincent Infirmiry Medical Center – Little Rock • CHI St. Vincent Pulmonology and Sleep Medicine Clinic • Maple Creek Medical Clinic <p>Additionally, during the deposition of Dr. Justin Seale, plaintiff's non-retained medical expert, plaintiff stipulated that Dr. Seale's testimony would be limited to discussing the care he provided plaintiff. Komptech objects to plaintiff's attempt to seek introduction of any medical record to meet his burden of proof on proximate causation as such testimony must come through qualified expert witnesses.</p>
9	Komptech objects to the introduction of any medical bill outside of the bills plaintiff incurred as a result of Dr. Seale's treatment. Komptech further objects to the introduction of any medical bill not produced during discovery. Plaintiff recently produced a summary of medical bills. Komptech does not object to plaintiff's use of that summary provided that it is redacted to exclude all billing information apart from those attributable to Dr. Seale/Arkansas Specialty Orthopedics.
10	Komptech objects to the introduction of any employment records because plaintiff has not produced any.

3. **Witness List.** Komptech objects to plaintiff calling Mr. Adam Hall or Dr. Barry Baskin during plaintiff's case-in-chief. Both are Komptech's retained expert witnesses.

Although the parties agreed that plaintiff could present Dr. Seale's deposition transcript at trial in lieu of calling him live, Komptech reserved the right to object to portions of Dr. Seale's deposition testimony. Plaintiff's pretrial disclosure did not specify what portions of Dr. Seale's transcript, if any, were being designated for trial. Komptech is unable to identify objections because it lacks those designations. Out of an abundance of caution and to the extent the Court permits plaintiff to present Dr. Seale's deposition transcript (attached as Exhibit A), Komptech cross-designates as follows:

Page 6, lines 6 – 25;

Page 7, line 1;

Page 8, lines 5 – 20;

Page 9, lines 22 – 25;

Page 10, lines 1 – 5, 8 – 12;

Page 12, lines 2 – 22;

Page 15, lines 5 – 12;

Page 17, lines 13 – 25;

Page 18, lines 1 – 10;

Page 20, lines 21 – 25;

Page 21, lines 2 – 25;

Page 22, lines 1 – 13, 22 – 25;

Page 23, lines 1 – 22;

Page 30, lines 14 – 25;

Page 31, lines 1 – 12, 25;

Page 32, lines 1 – 24;

Page 33, lines 12 – 18;

Page 34, lines 4 – 25;

Page 35, lines 1 – 21;

Page 36, lines 10 – 18;

Page 40, lines 18 – 25;

Page 41, lines 1, 19 – 25;

Page 42, lines 1 – 5;

Page 43, lines 11 – 18;

Page 44, lines 5 – 10;

Page 46, lines 4 – 15;

Page 47, lines 1 – 5, 12 – 15;

Page 48, lines 5 – 10, 20 – 25;

Page 49, lines 1 – 25;

Page 50, lines 1 – 15;

Page 55, lines 20 – 25;

Page 56, lines 1 – 8;

Page 59, lines 15 – 25;

Page 60, lines 1 – 14;

Page 61, lines 2 – 10, 16 – 25;

Page 62, lines 1 – 16, 22 – 25;

Page 63, lines 1 – 11;

Page 64, lines 8 – 15;

Page 68, lines 21 – 25;

Page 69, lines 1, 6 – 9, 11 – 13;

Page 80, lines 21 – 25;

Page 81, lines 1 – 13;

Page 82, lines 2 – 7, 11 – 19;

Page 83, lines 20 – 23;

Page 84, line 25; and

Page 85, lines 1 – 4, 6 – 8.

4. This filing is not intended to waive Komptech's right to challenge the propriety of any witness's testimony or any other form of evidence through a motion in limine filed in accordance with the Court's scheduling order.

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ David C. Jung
David C. Jung